

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
UNITED STATES OF AMERICA,	:
	:
Government,	:
	:
-against-	:
	:
DAVID HERSHAN,	:
	:
Defendant.	:
-----X	

13-CR-743 (RMB)

ORDER

The Court having considered the applicable authorities and record herein, including the letter motions submitted on behalf of Defendant David Hershan by counsel Murray Richman, Esq., on October 7, 2024, October 10, 2024, and October 28, 2024 (ECF Nos. 60, 62 & 65), requesting “a hearing to address the restitution of \$1,136,847.79” as well as the Government’s letter response in opposition, dated October 24, 2024 (ECF No. 64), contending “the Court should deny the defendant’s request and order the defendant to continue to make restitution payments,” **respectfully denies Defendant’s letter motions (ECF Nos. 60, 62 & 65).**

As the Government contends, the relevant legal authority “do[es] not permit the Court to alter the amount of restitution.” (Gov’t Ltr., dated Oct. 24, 2024 (“Gov’t Ltr.”), at 2–3; *see United States v. Kyles*, 601 F.3d 78, 83 (2d Cir. 2010); *see also* 18 U.S.C. §§ 3664(k), 3664(o), 3572(d)(3), and 3613(A)).

And, as the Government establishes, “the defendant’s restitution is ‘not joint and several’” and “the defendant cannot now reduce his restitution amount by pointing to the payments from his co-defendants to ameliorate different harms.” (Gov’t Ltr. at 2; *see* Sent. Tr., dated Aug. 15, 2016, at 16.)

By Order dated July 23, 2024, the Court directed Defendant to confer with the Financial Litigation Unit and submit a financial questionnaire. According to the Government, over the course of the past nearly five years, “the defendant has not paid a single cent of restitution.” (Gov’t Ltr. at 3.) On October 23, 2024, the Court understands, “based on the information the defendant provided, the Financial Litigation Unit proposed a monthly payment of \$5,200.” (*Id.* at 2.)

Conclusion & Order

The Court respectfully denies Defendant’s letter motions (ECF Nos. 60, 62 & 65) and orders Defendant to fulfill his financial obligation.

Date: October 29, 2024
New York, New York



RICHARD M. BERMAN, U.S.D.J.